FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing filed by John and Betty Romanick, the owners of the subject property, known as 5 Hoff Court, which is located in the Kenwood community of Baltimore County. The Petitioners request approval to permit an existing fence of 42 inches in height to remain along the property line separating Lots 5 and 6 of the Lloyd Property (Grimesdale), in accordance with Petitioner's Exhibits 1 and 2.

Appearing on behalf of the Petition were the owners of the subject property, John and Betty Romanick, who were represented by John B. Gontrum, Esquire. Appearing in opposition to the request were Mr. & Mrs. Charles Soistman, and Jane Grau. all of whom reside immediately across from and adjacent to the subject property.

Testimony indicated that the subject property, known as 5 Hoff Court, consists of .173 acres, more or less, zoned D.R. 5.5 and is improved with a single family dwelling. The subject of this rather unusual case concerns an existing fence 42 inches in height which was placed along three side property lines. The Petitioners' property, also known as Lot 5 of Grimesdale, adjoins another lot in this residential subdivision owned by Charles and Vicki Soistman. The Soistmans' property is known as Lot 6. The subject fence is located between the two lots and is more particularly

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this Alay of July, 1993 that the Petition for Special Hearing requesting approval to permit an existing fence of 42 inches in height to remain along the property line separating Lots 5 and 6 of the Lloyd Property (Grimesdale), in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restriction:

> 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

> > Zoning Commissioner for Baltimore County

> > > - 5-

shown on the site plan submitted at the hearing and marked Petitioner's Exhibit 1.

The facts presented in this case are largely undisputed. As noted above, the Petitioners reside on Lot 5. The Petitioners' lot, as well as others in the immediate area, are part of the residential subdivision known as Grimesdale. Access to the Romanick lot is by way of a panhandle driveway off of Hoff Court. This panhandle driveway extends approximately 105.7 feet in a southerly direction from the north curve of Hoff Court to the southern property line of the Romanick property. In addition to the Romanicks' use of this panhandle driveway, the Soistmans and the Graus also use this driveway for access to their properties, known as 7 and 9 Hoff Court, respectively. The layout of the panhandle drive is clearly shown on Petitioner's Exhibit 1 as well as the numerous photographs which were presented.

As is often the case when neighbors must share access, problems have developed between the Petitioners and the Protestants in this matter. As is shown on the site plan, each neighbor owns a one-third fee interest in the panhandle driveway and there is no doubt that each has the right to use the entire driveway in common with the others. Apparently, parking problems and access/egress to the respective properties have developed. The neighbors do not get along. Apparently, these ill feelings have extend to another neighbor, John Evans, who resides at 4 Hoff Court, although the Evans' property is not impacted by the panhandle driveway. the photographs show that a fence has been erected in an attempt to barricade that property from the neighboring tracts. In any event, Mr. Romanick has caused there to be constructed a 42-inch high chain link fence across the front and two sides of his property. Approximately 1/4 of the fence

- 2-

Baltimore County Government

Zoning Commissioner Office of Planning and Zoning

July 26, 1993

Enclosed please find a copy of the decision rendered in the

In the event any party finds the decision rendered is unfavor-

LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

above-captioned matter. The Petition for Special Hearing has been granted

able, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development

(410) 887-4386

Suite 113 Courthouse

Towson, MD 21204

400 Washington Avenue

John B. Gontrum, Esquire

(5 Hoff Court)

Dear Mr. Gontrum:

LES:bjs

Case No. 93-420-SPH

Management office at 887-3391.

cc: Mr. & Mrs. Charles J. Soistman

Ms. Jane Grau

People's Counsel

7 Hoff Court, Baltimore, Md. 21221

9 Hoff Court, Baltimore, Md. 21221

Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING

SW/S Hoff Court, 90' W of John Avenue

John Romanick, et ux - Petitioners

in accordance with the attached Order.

15th Election District - 5th Councilmanic District

814 Eastern Boulevard

across the front yard consists of a pole and chain which the Romanicks apparently remove as necessary to gain access to and from the panhandle driveway. This removable chain remains in place during most of the hours of the day, much to the consternation of the Soistmans and the Graus.

Mr. Romanick testified that he installed the fence because of intrusion on his property by the Soistmans and the Graus, as well as visitors to those properties. Mr. Romanick claims the fence is necessary to insure the tranquility and privacy of his lot. To the contrary, the Soistmans and the Graus claim that the fence is improper and unduly restricts access to their lots. They believe that the Romanicks are the villains in this squabble and that the fence should be removed.

Apparently, either the Graus or the Soistmans, or both, contacted the Zoning Administration and Development Management (ZADM) office regarding a potential violation for this property. In fact, a violation notice was issued by ZADM; however, prior to moving forward with the violation case, the Petitioners were allowed the opportunity to file the instant Petition to determine if the fence was permitted under the appropriate provisions of the B.C.Z.R.

I have reviewed both the relevant provisions of the B.C.Z.R. as well as the development regulations codified in the Baltimore County Code As to fences, relevant regulations are found within Section 427 of the B.C.Z.R. In my view, that Section nowhere prohibits the construction of a fence such as has been installed by the Romanicks. Therefore, I do not see any violation of any provision of the B.C.Z.R. or other zoning regulation or policy. I have also reviewed the applicable provisions of the Baltimore County Code as they relate to panhandle driveways. These regulations are contained within Section 26-266 of the County Code, which governs

- 3-

development in Baltimore County. Again, however, there is no prohibition found in the Code as it relates to the instant scenario. Mr. Gontrum, Counsel for the Petitioners, indicated as much at the hearing. He did acknowledge that the most recent version of the Comprehensive Manual of Development Policies (C.M.D.P.) would prohibit the Romanick fence where However, as Mr. Gontrum correctly observed, the fence was constructed prior to the adoption of the latest version of the C.M.D.P. and is therefore grandfathered.

The subject Petition for Special Hearing is filed pursuant to the authority given the Zoning Commissioner in accordance with Section 500.7 of the B.C.Z.R. That Section provides that the Zoning Commissioner shall have the power to conduct such other hearings and pass such other orders as is necessary to properly enforce and interpret the zoning regulations of Baltimore County. In this case, there are no zoning or development regulations which can be applied to this situation. Therefore, having found no authority prohibiting the fence, I am left with no alternative other than to grant the Petition as filed.

Nothwithstanding my decision in this respect, however, I believe that the affected neighbors do have other means for relief. Although not privy to their deeds, I suspect that they have a right of access on the entire panhandle driveway, including the portion which is blocked by the Romanicks' fence. Perhaps relief to the Graus and the Soistmans lies through an action in the Circuit Court of Maryland for Baltimore County. Quite frankly, I am sympathetic to their plight; however, I am powerless to order that the fence be removed.

- 4-

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County for the property located at 5 Hoff Court, Baltimore, Md. 21221

which is presently zoned This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County,

to determine whether or not the Zoning Commissioner should approve a fence 42" in height along the property line separating Lots 5 and 6 as shown on the accompanying site plan of a portion of Lloyd Property "Grimesdale" record plat.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

	•
	I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:	Legal Owner(s).
	Soffer Removede
(Type or Print Name)	(Type or Print Name)
	A P
Signature	Signature
	(Type or Print Name)
Address	
	Betty Romanick
City State Zipcode	Signature
Attorney for Petitioner.	5 Hoff Court
John B. Gontrum	Baltimore, Md. 21221
(Type or Print Name)	City State Zipcode
	Name, Address and phone number of legal owner, contract purchaser or represent to be contacted.
Substance	SAME
	Name
814 Eastern Boulevard 686-8274 Address Phone No.	Address Phose No.
Baltimore, Md. 21221	
City State Zipcode	OFFICE USE ONLY ESTIMATED LENGTH OF HEARING
a Arrida a.	unovalishte for Hearing
	the fellowing dates Heat Ywo Month
~	

ROMANICK SPECIAL HEARING ZONING DESCRIPTION

BEGINNING at a point on the Southwestern side of Hoff Court 190.00 feet from the center line of John Avenue and running the following courses and distances; S 17° 56' 1" West 105.70 feet, S 72° 3' 59" East 90.33 feet, S 17° 56' 1" East 70 feet, N 72° 3' 59" West 97.51 feet, N 17° 56' 1" East 175.36 feet thence running along the southwestern side of Hoff Court 7.18 feet to the point of beginning.

BEING all that lot of ground known at Lot 5 Lloyd Property "Grimesdale" as recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 49 folio 80, containing 7,557 square feet, plus or minus.

LES:bjs

EIVED FOR FILING

CERTIFICATE OF POSTING

John + Goth Kowanik Location of property 5 Hoff of sw/s, 190 W/ John Arm Location of Signer Foring Tord way on property to be Tone 1 Date of return: 6/1/93

MOTION OF HEALTH State State County, by eatherty of the Zoning Act and Regulations of Beltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeske Avenue in Toweon, Maryland 21204 or Room 118, Old Courthouse, 400 Weshington Avenue, Toweon, Maryland 21204 as follows: Case: #93-420-SPH (item 432) 5 Hoff Court SW/S Hoff Court, 190' W of SWS Hoff Court, 190' W of John Avenue 19th Election District 5th Councilmenic Petitioner(s): John Romanick and Betty Romanick Hearing: Monday, June 28, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse. Special Hearing to approve a fence 42" in height along the property line separating Lots 5 and 6 of a portion of Lloyd Property "Grimeedale" record plat. LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County NOTE: HEARINGS ARE HANDI-CAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive

THE JEFFERSONIAN,

Zoning Administration & Dovelopment Management

5/27/93

1991

93-420-SPH

Res SPH Feling fee. (ocle 030 = \$ 50.00 (1) SIGN Porting Fee Code 080 = 35.00

NAME : ROMANIKI LOL # 5 HOFF CT.

> 03A03#0132MICHRC Please Make Checks Payable To: Baltimore County 3 2 3 FM05-27-93

cc: John and Betty Romanick John B. Gontrum, Esq. NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391. Jec: Vicki Soistman

111 West Chesapeake Avenue

JUNE 7, 1993

5 Hoff Court

Arnold Jablon

Director

CASE NUMBER: 93-420-SPH (Item 432)

SW/S Hoff Court, 190' W of John Avenue

15th Election District - 5th Councilmanic

Call Jable

Petitioner(s): John Romanick and Betty Romanick

portion of Lloyd Property "Grimesdale" record plat.

HEARING: MONDAY, JUNE 28, 1993 at 2:00 p.m. in Rm. 118, Old Courthouse.

Towson, MD 21204

UIC

(410) 887-3353

BALTIMORE COUNTY, MARYLAND

Baltimore County Government

Office of Zoning Administration and Development Management

NOTICE OF HEARING

Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore

Room 118, Gid Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Special Hearing to approve a fence 42" in height along the property line separating Lots 5 and 6 of a

County, will hold a public hearing on the property identified herein in

Inter-Office Correspondence

Captain Jerry Pfeifer

SUBJECT: June 14, 1993 Meeting

#425 No Comments

#427 No Comments Building shall comply with the 1991 Life Safety Code #428

#429 No Comments

No Comments No Comments

Und S 1222

DATE: <u>June</u> 7, 1993

the said parties of the first part

do grant and convey to the said parties of the second part, as tenants by the entireties, their assigns, the survivor of them and the sur-

siderations, the receipt of which is hereby acknowledged.

John Romanick and Betty B. Romanick, his wife, parties

WITNESSETH, That in consideration of the sum of Twenty one Thousand Four Hundred (\$21,400.00) Dollars and 00/100ths, and other good and valuable con-

Baltimore County Government Office of Zoning Administration

and Development Management

June 14, 1993

RE: Case No. 93-420-SPH, Item No. 432

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans

submitted with the above referenced petition. The attached comments

from each reviewing agency are not intended to indicate the

appropriateness of the zoning action requested, but to assure that all

parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are

made aware of plans or problems with regard to the proposed

Enclosed are all comments submitted thus far from the members of ZAC

that offer or request information on your petition. If additional

comments are received from other members of ZAC, I will forward them to

you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on May 27,

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing

1) The Director of Zoning Administration and Development

Management has instituted a system whereby seasoned zoning

attorneys who feel that they are capable of filing petitions that

comply with all aspects of the zoning regulations and petitions

filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

LIBER 6 4 5 7 FACE 2 7 3

October

by and between

of the first part, and

improvements that may have a bearing on this case.

1993, and a hearing was scheduled accordingly.

process with this office.

DEED - FEE SIMPLE - INDIVIDUAL GRANTOR - LONG FORM

in the year one thousand nine hundred and eighty-two

Baltimore County, parties

Thomas A. Lloyd and Robert B. Tipton

This Deed, MADE THIS

of the second part.

vivor's

Petitioner: John Romanick, et ux Petition for Special Hearing

(410) 887-3353

111 West Chesapeake Avenue

John B. Gontrum, Esquire

814 Eastern Boulevard

Baltimore, MD 21221

Dear Mr. Gontrum:

Towson, MD 21204

, in fee simple, all of ground situate in Baltimore County, Maryland

and described as follows, that is to say: Being known and designated as Lot No. 5, as shown on the Plat entitled "Lloyd Property 'Grimesdale'", which Plat is recorded among the Land Records of Baltimore County in Platbook E.H.K., Jr. No. 49, folio 80, being an unimproved lot, in fee simple.

Being part of the same lot of ground described in deed dated November 21, 1978, and recorded among the Land Records of Baltimore County in Liber E.M.K., Jr., 5961, folio 426, which was granted and conveyed from Lloyd Realty, Inc., unto the parties of the first part herein.

C RC/F 14.00 C T TX 107.00 C DOCS 107.50 DEED 0 # EHK JR T 228.50 # #28782 COO1 ROZ T12:43 11/22/82

AGRICULTURAL TRANSFER TAX NOT APPLICABLE

8 040*****32100Aa =228A

Maryland Department of Transportation State Highway Administration

O. James Lighthizer Secretary Hal Kassoff Administrator

6-3-93

Re: Baltimore County Item No.: \$ 432 (JLL)

Ms. Helene Kehring Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue

Dear Ms. Kehring:

Towson, Maryland 21204

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

John Contestabile, Chief Engineering Access Permits

My telephone number is ______

Teletypewriter for impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toil Free 707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration and

Development Management

Pat Keller, Deputy Director Office of Planning and Zoning

Item Nos. 427, 429, 431 and 432.

Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

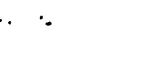
Ody L. Klins

PK/JL:lw

427.ZAC/ZAC1

DATE: June 10, 1993

· · · · ·







TO: Zoning Advisory Committee

Building shall comply with the 1991 Life Safety Code

ZADM

V.B.10 BUILDING TO STREET PROPERTY LINE

Windowless walls or attached garden walls may be built directly upon street property lines upon approval of the Planning Board. Such buildings must be designed to relate to adjoining structures and not to distract from the general streetscape.

V.B.11 Panhandle Lots

V.B.11.a. URBAN (Subdivisions within the URDL)

Panhandle lots shall not be further subdivided into lots accommodating additional residences.

There should not be more than three panhandle driveways together and the length of panhandle driveways should not exceed 300 feet. The minimum width shall be at least 12 feet.* See Figure

*The Director of Planning may waive these limits under very unique conditions, referring such waiver to the Planning Board if he deems it necessary.

It shall be noted on the record plat that, for panhandle lots, refuse collection, snow removal and road maintenance are provided to the junction of the panhandle and the street right-of-way line only, and not onto the panhandle lot driveway.

Panhandle lot buyers must be given a record plat of the subdivision by the seller.

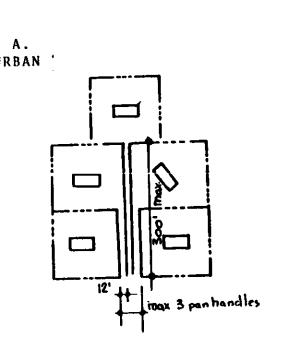
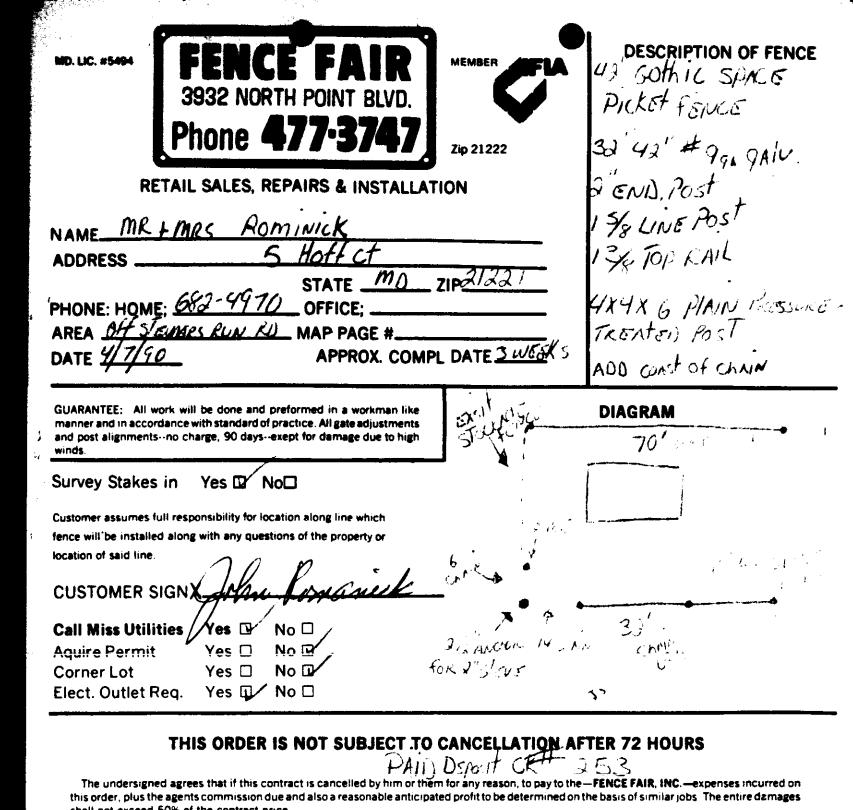


Figure 5-13a

V - 17



The undersigned agrees that if this contract is cancelled by him or them for any reason, to pay to the —FENCE FAIR, INC.—expenses incurred on this order, plus the agents commission due and also a reasonable anticipated profit to be determined on the basis of similar jobs. The entire damages shall not exceed 50% of the contract price.

This contract consitutes the entire understanding of the parties, no other conditions, collateral or otherwise shall be binding unless in writing signed by both parties. If payment is not recieved within 10 days of completion or alloted finance period writen above, all materials (posts, gates, etc.) erected by FENCE FAIR, INC. will be repossed!

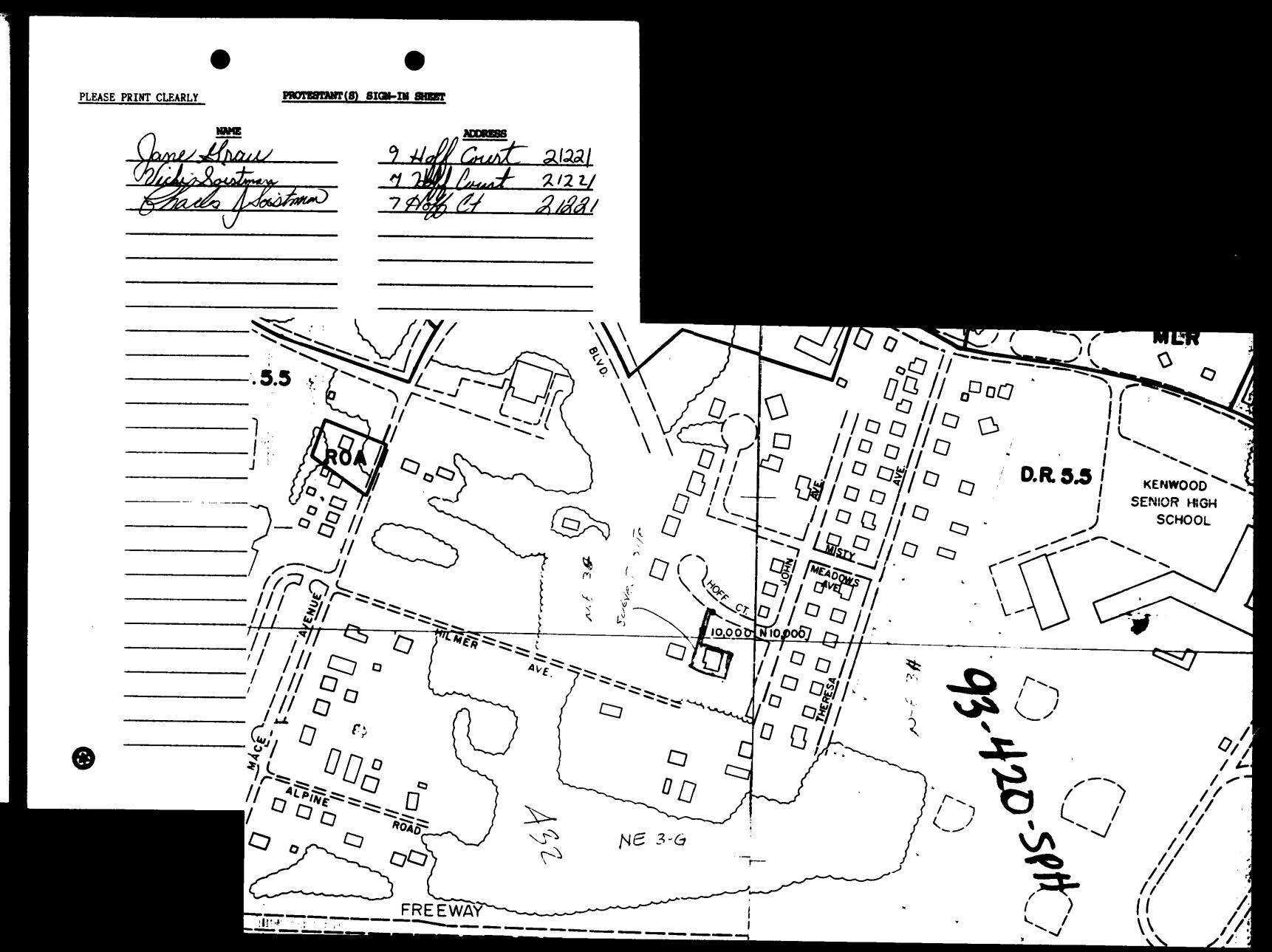
The undersigned property owner agrees to pay for the said work the sum of 1/67. Less deposit.

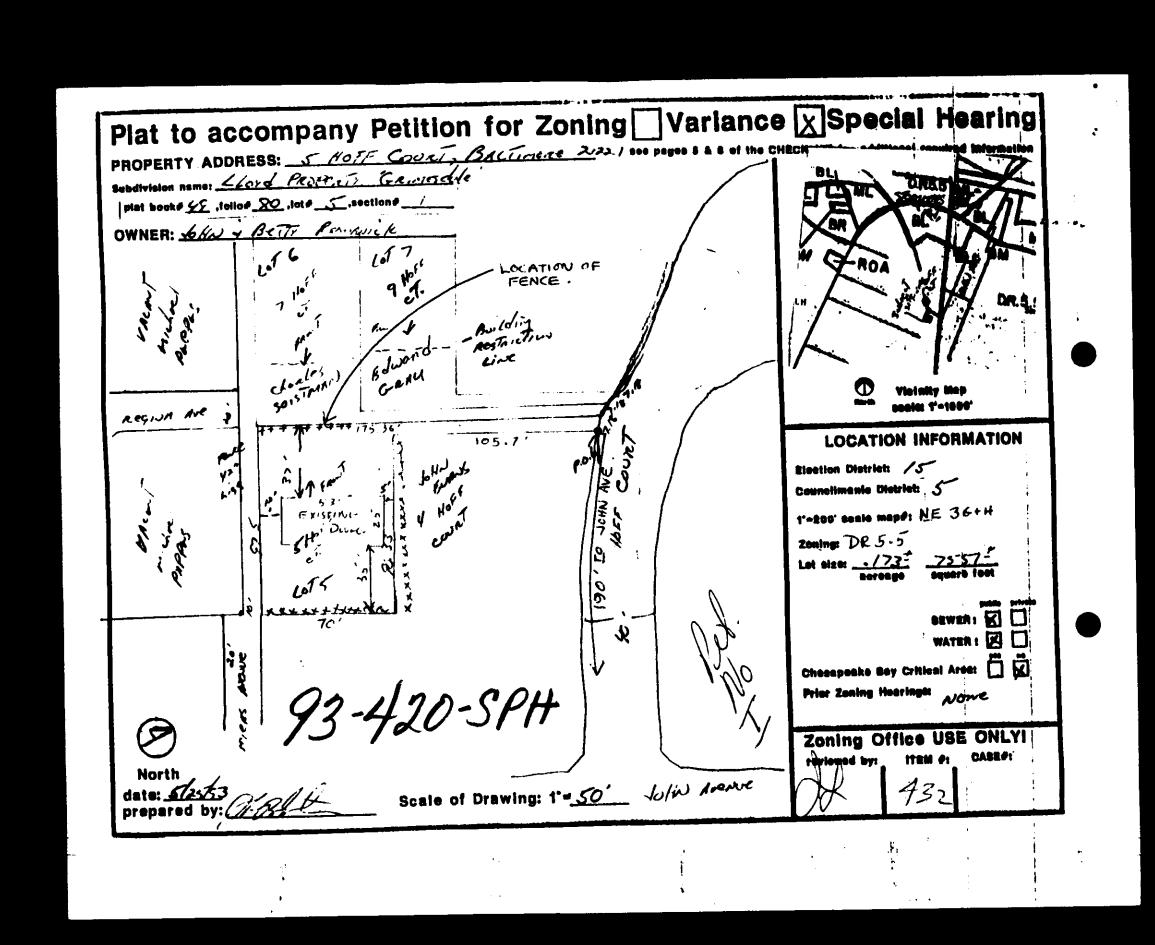
Balance of 57.00 D.

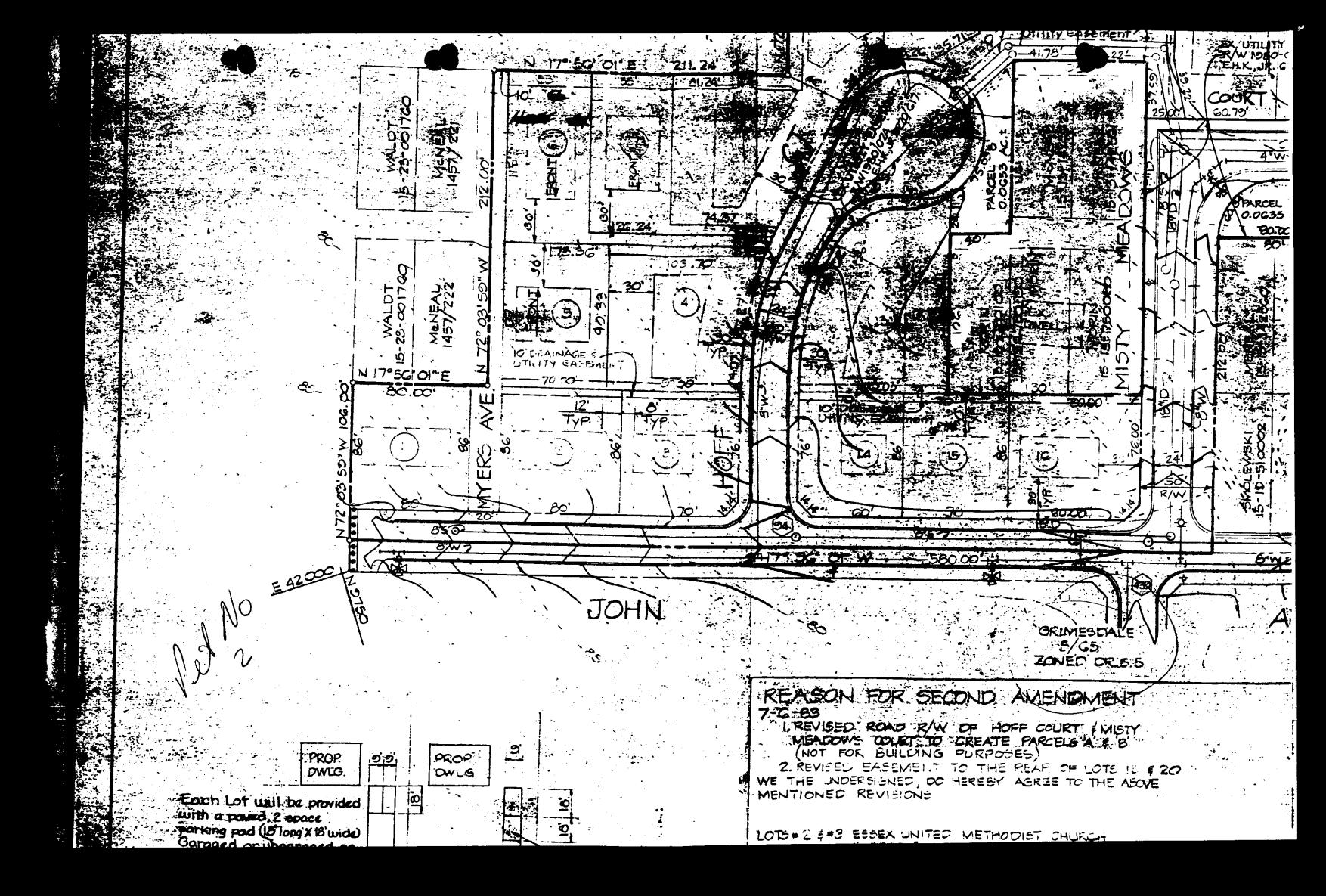
Make remittance payable to FENCE FAIR, INC.—TERMS. C.O.D. Forman must collect, NET 10 DAYS from date of completion—interest at the rate of 1½% per month will be charged on all past accounts.

ACCEPTED BY:

OWNERX.







We the undersigned do hereby agent a few above mentioned revision (owners with a second Lot #1 Joseph G. Scharmer Dozel & Mary C. Scharmer Mary C. Lot # 2:3 Essex United Methodist County Lot # ? Edward Kunnith Pakulski Fall 1801 Lot #10 Antonio Pierorazio Di la Pierorazio Emilia M. Pierorazio Emilia M. Pierorazio with shower and for scala. is one to be public. the scown burger are to be public typical. por contains at lener 500 O.F. of contiguous private coilected by Collimore County. and the pareon are for the location of all: Enclosed projections into yords way by Enclosed projections into yords way by Enclosed but must comply with sections 400 Enclosed by Enclosed County Zording Requirements Enclosed by Enclosed Building Rumpits Enclosed by Enclosed

